

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CYNTHIA BANCROFT

3597 W. 59th Street
Cleveland, Ohio 44102

Plaintiff,

v.

ENHANCED RECOVERY

COMPANY, LLC

c/o Capitol Corporate Services, Inc.
4568 Mayfield Road
Cleveland, Ohio 44121,

Defendant.

)

) Case No: 1:12-cv-1501

)

) JURY DEMAND REQUESTED

)

) **CIVIL COMPLAINT**

) **(Unlawful Debt Collection Practices)**

)

)

)

)

)

)

)

)

COMPLAINT

PLAINTIFF, Cynthia Bancroft (Plaintiff), by her attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT, Enhanced Recovery Company, LLC (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy," and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in Cleveland, Cuyahoga County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a “consumer” as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a Delaware limited liability company and debt collector with an office in Jacksonville, Florida.
8. Defendant uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts, and/or regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Beginning several months before and continuing into April 2012, Defendant has placed daily collection calls to Plaintiff from telephone number 301-223-0073.
11. Plaintiff is blind, disabled, and receives only social security disability income payments. Plaintiff has informed the Defendant on numerous occasions that she is disabled with income limited to disability benefits, and cannot afford to pay the

alleged debt. Defendant has continued to seek collection payment and assert that it has legal right to obtain payment from Plaintiff's income, despite that it is not legally entitled to garnish or recoup payment from Plaintiff's disability income.

12. Defendant's ongoing and continuous course of calls after being informed Plaintiff is disabled and unable to pay the debt was made with the intent to harass and annoy Plaintiff as the call recipient.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

13. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
- b. Defendant violated §1692e(5) by threatening to take any action that cannot be legally taken or is not intended to be taken.
- c. Defendant violated §1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

WHEREFORE, Plaintiff, Cynthia Bancroft, respectfully requests judgment be entered against Defendant, for the following:

14. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,

15. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*

16. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, Cynthia Bancroft, requests a jury trial in this case.

Respectfully submitted,

KAHN & ASSOCIATES, LLC

/s/ David W. Skall

DAVID W. SKALL (0068740)

dskall@kahnandassociates.com

6200 Rockside Woods Blvd., Suite 215

Cleveland, Ohio 44131

216.621.6101 Telephone

216.621.6006 Facsimile

Attorney for Plaintiff